

DECISION RECORD
for the
Lahontan Herd Management Area Horse Gather
Environmental Assessment
DOI-BLM-NV-C020-2010-0018-EA

BACKGROUND

The Lahontan Herd Management Area (HMA) is located near Silver Springs, Lyon County, Nevada. The HMA is managed by the Sierra Front Field Office (SFFO) and consists of 11,029 acres, of which 583 acres are on private lands. The HMA is located almost entirely within the Lahontan Grazing Allotment which is 52,910 acres in size and is adjacent to the Lahontan State Recreation Area.

The Proposed Action is to gather and remove approximately 94 excess horses from within and outside the boundaries of the HMA on or about mid-November to December 2010. The gather is anticipated to take two days to complete. Excess horses are currently over-utilizing rangelands inside the HMA and have moved to areas outside the HMA boundaries. At the time of the enactment of the *Wild Free-Roaming Horses and Burros Act of 1971* (WFRHBA), the estimated horse population on the HMA was four animals. Under the WFRHBA, the Secretary of the Interior is directed to “manage wild free-roaming wild horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands.”

A Herd Management Area Plan/Capture Plan (HMAP) was originally prepared for this HMA in 1991, and was updated in 2003. The Appropriate Management Level (AML) for the HMA was set after analysis of monitoring data and following a public decision-making process that resulted in a Multiple Use Decision (MUD) in 1993. The MUD established an AML range of 7 to 10 wild horses, which represents the wild horse population at which a thriving natural ecological balance can be maintained within the HMA. A direct aerial population inventory of the HMA was conducted in May, 2010. One-hundred four wild horses were observed, all were located outside of the HMA boundaries. Wild horses were observed in the portions of the Lahontan Grazing Allotment, immediately east/northeast of the HMA, and Lahontan State Recreation Area, north of the HMA. No wild horses were located inside the HMA during the aerial inventory. The current population estimate is approximately 10 times above the upper range of AML for the HMA.

DECISION

Based on the analysis in Environmental Assessment No. DOI-BLM-NV-C020-2010-0018-EA, it is my decision to implement a horse gather as described in Alternative A (Proposed Action) of the EA, effective immediately pursuant to 43 U.S.C. § 4770.3(c). This alternative will maintain the Lahontan HMA at, or near, the Appropriate Management Level (AML) while ensuring the continued viability of the herd.

Wild horses above the AML are considered “excess” and subject to gather and removal. I have concluded that gathering the excess horses found within and outside of the Lahontan HMA is necessary to preserve and maintain a thriving and natural ecological balance and multiple-use relationship within the HMA as specified in the Carson City Field Office Consolidated Resource Management Plan (CRMP), and as directed by the Wild Free-Roaming Horses and Burros Act of 1971 (WFRHBA). All reasonable precautions will be taken to avoid injury to the horses and to ensure the safety of personnel involved in the gather. The gather will not compromise the long-term viability of the wild horses in the Lahontan HMA.

AUTHORITY

The authority for this Decision is contained in Section 1333(a) of the WFRHBA, Section 302(a) of the Federal Land Policy and Management Act (FLPMA) of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700 as follows:

§4700.0-6 Policy

- (a) Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat;
- (b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans;
- (c) Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior;
- (d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.

§4710.4 Constraints on Management

Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.

§4720.1 Removal of excess animals from public lands

Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately...

§4740.1 Use of Motor Vehicles or Air-Craft

(a) Motor vehicles and aircraft may be used by the authorized officer in all phases of the administration of the Act, except that no motor vehicle or aircraft, other than helicopters, shall be used for the purpose of herding or chasing wild horses or burros for capture or destruction. All such use shall be conducted in a humane manner.

(b) Before using helicopters or motor vehicles in the management of wild horses or burros, the authorized officer shall conduct a public hearing in the area where such use is to be made.

§4770.3 Administrative Remedies

(a) Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal. Appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR part 4.

(c) Notwithstanding the provisions of paragraph (a) of §4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from public or private lands in situations where removal is required by applicable law or is necessary to preserve or maintain a thriving natural ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision.

In addition, the decision conforms to the CRMP (2001) which directs that wild horses in excess of AML are subject to gathering and removal so as to maintain a thriving natural ecological balance.

PUBLIC INVOLVEMENT

The EA was made available for public review and comment on August 23, 2010. Letters to 62 individuals, organizations and agencies were mailed on August 20, 2010. Notification of the availability of the EA to 33 other State and federal offices was made through the Nevada State Clearinghouse on August 19, 2010. The CCDO published a news release on August 23, 2010. Articles on the proposed gather were featured in the *Lahontan Valley News*, *This is Reno*, *My News 3**, *My News 4**, *Reno Gazette-Journal** (*web versions) and the *Mineral County Independent*. BLM staff presented information on the horse gather to the Lyon County Advisory Board to Manage Wildlife meeting in Yerington, Nevada on September 13, 2010 and to the Lyon County Animal Control Advisory Board meeting in Silver Springs, Nevada on September 21, 2010. The comment period closed on September 21, 2010, although comments received in a timely manner after this date were also considered. BLM staff also met with staff from the Lahontan State Recreation Area on September 27, 2010 to discuss the proposed gather. The EA was made available by hard copy at the Carson City District Office, and on the website at: http://www.blm.gov/nv/st/en/fo/carson_city_field/blm_information/nepa.html.

Comment letters from the public, organizations and agencies were received by email, fax, and mail delivery. All comments were reviewed, considered and then categorized. Comment letters were broken down into the following categories: 26 comment letters from individuals; one petition signed by 56 individuals; form letters from 6,615 individuals; and comments by four agencies and three organizations. A summary of key topics contained in the comment letters can be found in Appendix C of the Final EA. Several minor changes were made to the content of the Final EA as a result of the comments, and are noted in Appendix C: Comments and Responses to Comments.

RATIONALE

Upon analyzing the impacts of the Proposed Action and following issuance of the EA for public review, I have determined that implementing the Proposed Action will not have a significant impact to the human environment and that an environmental impact statement is not required. Refer to the attached Finding of No Significant Impact.

The gather is necessary to remove excess wild horses within and outside the Lahontan HMA to bring the wild horse population back to within the established AML range, in order to maintain a thriving natural ecological balance between wild horses, wildlife, livestock, vegetation and available water as required under Section 1333(a) of the WFRHBA and Section 302(a) of the Federal Land Policy and Management Act of 1976.

The BLM is required to manage multiple uses in a manner that avoids degradation of the rangelands, and removal of excess wild horses is necessary to protect rangeland resources from further deterioration or impacts associated with the current overpopulation of wild horses within and outside the Lahontan HMA. As noted in Table 2 of the EA, since 1991, 513 wild horses have previously been removed from the HMA, with prior gathers in 1991, 1994, 1996 and 2004.


The Proposed Action will achieve the wild horse management objectives identified in the CRMP.

Leaving excess wild horses on the range under the No Action Alternative would not comply with the WFRHBA or applicable regulations and Bureau policy. The No Action Alternative would allow for the continued deterioration of rangeland resources, including vegetation, soil, and riparian resources. Wild horses would continue to relocate in increasing numbers to areas outside of the HMA boundaries to search for water and better forage conditions, adversely impacting public land resources not designated for wild horse management. The No Action Alternative also increases the likelihood of emergency conditions arising, which conditions would require an emergency gather to prevent individual animals from suffering or death due to insufficient forage or water.

APPROVAL

The Lahontan HMA Horse Gather EA is approved for implementation immediately, and the gather is approved to begin on or about mid-November to December 2010 and take two days to complete. This decision is effective upon issuance in accordance with Title 43 of the Code of

Federal Regulations (CFR) at 4770.3(c) because removal of excess wild horses is necessary to protect animal health and prevent further deterioration of rangeland resources.


Linda J. Kelly
Field Manager
Sierra Front Field Office

10-15-10
Date

APPEAL PROCEDURES

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR Part 4. If you appeal, your appeal **must also** be filed with the Bureau of Land Management at the following address:

Linda J. Kelly, Sierra Front Field Manager
BLM, Carson City District Office
5665 Morgan Mill Road
Carson City, NV 89701

Your appeal must be filed within thirty (30) days from receipt or issuance of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4942, January 19, 1993) for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to:

Board of Land Appeals
Dockets Attorney
801 N. Quincy Street, Suite 300
Arlington, VA 22203

A copy must also be sent to the appropriate office of the Solicitor at the same time the original documents are filed with the above office.

U.S. Department of the Interior
Office of the Regional Solicitor
Pacific Southwest Region
2800 Cottage Way, Room E-1712
Sacramento, CA 95825

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay is required to show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied.
2. The likelihood of the appellants success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

The Office of Hearings and Appeals regulations do not provide for electronic filing of appeals, electronically filed appeals will therefore not be accepted.